

**COMBINED NOTICE OF FINDING OF NO SIGNIFICANT IMPACT
AND INTENT TO REQUEST RELEASE OF FUNDS – AND FINAL NOTICE
AND PUBLIC EXPLANATION OF A PROPOSED ACTIVITY IN A
100-YEAR FLOODPLAIN AND WETLAND**

September 9, 2020

City of Kyle, 100 W. Center Street, Kyle, TX, 78640, 512-262-3949

These notices shall satisfy three separate but related procedural requirements for -activities to be undertaken by the City of Kyle.

To: All interested Agencies, USACE, TWDB Floodplain Administrator, Hays County Flood Control, Citizens of Kyle, Texas.

REQUEST FOR RELEASE OF FUNDS

On or about September 25, 2020, the City of Kyle will submit a request to the Texas General Land Office (TGLO) for the release of Supplemental Disaster Recovery Community Development Block Grant (CDBG) funds under program funds under Section 104(f) of Title 1 of the Housing & Community Development Act of 1974 as amended to undertake project known as Windy Hill Road and Drainage Improvements, Contract # B16DH480001 for the purpose of Windy Hill Street improvements – from 500 ft W. of Cherrywood to 500 ft East of Purple Martin Avenue. The City of Kyle shall reconstruct a portion of Windy Hill Road by removing and replacing existing culverts, the roadway, and approaches; when the roadway pavement and structure to add turn lane capacity, install railing and end treatments that meet TxDOT standards; and perform associated appurtenances. Improvements total approximately two thousand one hundred (2100) linear feet.

FINDING OF NO SIGNIFICANT IMPACT

The City of Kyle has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) online file at https://www.cityofkyle.com/planning/EA_WindyHillRoadDR_KyleOptimized.pdf and may be requested for review to Jo Ann E. Garcia, Road Bond Project Manager 520 Ranch to Market Rd 150, Kyle, TX 78640 at 512-262-3949, email: jgarcia@cityofkyle.com.

**FINAL NOTICE AND PUBLIC EXPLANATION OF PROPOSED ACTIVITY
IN A 100-YEAR FLOODPLAIN AND WETLANDS**

This is to give notice that the Responsible Entity under Part 58 has conducted an evaluation as required by Executive Order 11988 and 11990, in accordance with HUD regulations at 24 CFR 55.20 Subpart C Procedures for Making Determinations on Floodplain Management and Wetlands Protection. The activity is funded under the HUD Community Development Block Grant Disaster Recovery under DRS 19-280-000-B779. The proposed project(s) is located Windy Hill Road, from 500 ft West of Cherrywood to 500 ft East of Purple Martin Ave., Kyle, Hays County TX The City of Kyle shall reconstruct a portion of Windy Hill Road by removing and replacing existing culverts, the roadway, and approaches; widen the roadway pavement and structure to add turn lane capacity, install railing and end treatments that meet TxDOT standards; and improve associated appurtenances. Improvements total approximately two thousand one hundred (2100) linear feet. The proposed project(s) limits are approximately from 500 ft W. of Cherrywood to 500 ft East of Purple Martin Ave in Kyle, TX. According to FEMA flood panel 48209C029F, the project is located within .87 acres of a 100-year floodplain. According to a wetland delineation and the National Wetlands Inventory, the project is impacting less than 0.10 acres. Wetland R4SBC – Riverine and Freshwater Emergent.

The City of Kyle has considered the following alternatives and mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values: 1. Moving the project activities to another area was considered but the areas where flooding occurs is at along Windy Hill Road. The infrastructure located within the floodplain and over Richmond Branch is in significant need of improvements to prevent future flooding. 2. Using an alternate form of construction within the wetland was considered, however, the type of construction selected is the most feasible and cost-effective to ensure human health and the environment 3. Not conducting the improvements is not a selected alternative as this would present significant harm to human health and the environment in future heavy rain events.

Mitigation measures include: Earthwork volumes will be calculated and if it is determined fill is needed for the road infrastructure proposed, at the rate of 1 cy: 1cy material. Construction activities at Richmond Branch are covered under Nationwide Permit 14 (Linear Transportation Projects) as loss of WOTUS will be less than 0.1 acres and no discharge in a special aquatic sites will occur, including wetlands. In accordance with the guidelines of NWP 14, all limitations, criteria, and General Conditions should be followed by this project; all applicable guidelines are included environmental documentation. Sediment controls to prevent erosion that prevent impact to area wildlife. Routine monitoring of site prior to and during construction to prevent accidental capture of any animal species. Reseed area with native plants and grasses to prevent erosion and avoid invasive plants. Limit vegetation clearing using TPWD standards and BMPs when clearing is necessary; clearing of vegetation during general bird nesting season (between March and August) will be considered prior to construction and information regarding state listed and rare species will be provided to contractor. Conduct a bird, bat, and turtle surveys prior to and during construction to prevent impact to species; consult environmental checklist for future action if discovered. If wildlife enters the construction area, suspend construction until the animal leaves the area and/or contact TPWD for assistance. Any tree removal will be limited and be consistent with tree management best management practices and TPWD standards. If buried cultural materials are encountered during construction or disturbance activities, work should cease in the immediate area; work can continue where no cultural materials are present. Industry specific best management practices will be implemented to prevent construction runoff through berming and silt fencing. Grant contract amount is \$3,497,686.18.

The project was reevaluated to determine if the alternative chosen to complete the work in the floodplain is valid because the work will not significantly impact the floodplain as the activities are primarily to ensure improved functionality of existing structures such as improved drainage. Based on the evaluation, it is our determination that there is no practicable alternative for partially locating the project in the flood zone. This is due to: 1) the need to rehab the proposed area to prevent ongoing deterioration; 2) an alternate location would not be financially feasible nor practicable; 3) the ability to mitigate and minimize impacts on human health, public property, and floodplain values. Due to proximity of surrounding floodplains, contractor will ensure that best management practices during construction to floodplain and preserve area natural values associated with coastal development, like erosion prevention using silt fencing and returning the area to preconstruction conditions.

There are three primary purposes for this notice. First, people who may be affected by activities in the floodplain and those who have an interest in the protection of the natural environment should be given an opportunity to express their concerns and provide information about these areas. Commenters are encouraged to offer alternative sites outside of the floodplain, alternative methods to serve the same project purpose, and methods to minimize and mitigate impacts. Second, an adequate public notice program can be an important public educational tool. The dissemination of information and request for public comment about actions taking place in the floodplain can facilitate and enhance Federal efforts to reduce the risks and impacts associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the Federal government determines it will participate in actions taking place in the floodplain, it must inform those who may be put at greater or continued risk.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the City of Kyle. All comments received by September 24, 2020; will be considered by the City of Kyle prior to authorizing submission of a request for release of funds. Comments should specify which Notice they are addressing. Written comments regarding the Final Floodplain Notice must be received by September 16, 2020. Address comments to the Attention of Jo Ann E. Garcia, Road Bond Project Manager 520 Ranch to Market Rd 150, Kyle, TX 78640 at 512-262-3949 during the hours of 9:00 AM to 5:00 PM. Comments may also be submitted via email at jgarcia@cityofkyle.com.

ENVIRONMENTAL CERTIFICATION

The City of Kyle certifies to TGLO that Travis Mitchell, in his capacity as mayor consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. TGLO's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the City of Kyle to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

TGLO will accept objections to its release of fund and the City of Kyle certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the City of Kyle (b) the City of Kyle has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by TGLO; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to Texas General Land Office, Box 12873, Austin, Texas 78711-2873 or by email at david.camarena.glo@recovery.texas.gov. at address of that office. Potential objectors should contact TGLO to verify the actual last day of the objection period.

Travis Mitchell, Mayor